

ATTORNEY DOCKET NO. 112911.01701

PATENT

REMARKS

In the Office action dated June 28, 2004, the Examiner required restriction of the claims as follows (i) Invention I, claims 1-12 and 18-22, drawn to synthetic tetrapeptide or mimetic; (ii) Invention II, claims 13-17, drawn to a method of stimulating apoptosis, (iii) Invention III, claims 23-25 drawn to a method of making a drug suitable for treating cell proliferative disease in a mammal by promoting apoptosis in proliferatively diseased cells which includes an assay for apoptosis-inducing activity; and (iv) Invention IV, claims 26-32, drawn to a method of screening for a compound that binds IAP. In the telephone conference of August 3, 2004 the Examiner agreed that the restriction between Groups I and II was improper, however, he maintained the restriction requirement between the rejoined Group I and II and Invention Groups III and IV.

Applicant respectfully traverses the remaining restriction requirement and respectfully requests reconsideration. In order to be fully responsive, Applicant has provisionally elected, with traverse, the invention defined by claims 1-22. By this election, Applicant does not admit, nor does Applicant waive the right to argue against at a later date, the Examiner's statement that the groups of inventions are patentably distinct. Applicant expressly reserves the right to present the claims of Invention Groups III or IV, or other claims, in one or more divisional, continuation, or continuation-in-part applications at a later date.

Applicant does not believe that the Examiner would be seriously burdened by a search for each of Groups I-IV since the subject matter of the search for the claims of Group I and Group II would greatly overlap, if not be identical, to the search for the claims of Group III and Group IV. A search for Groups I and II of the tetrapeptide itself would necessarily include the methods of Group III and Group IV.

Applicant appreciates the Examiner rejoining Invention Group I and Invention Group II. In view of the above election and remarks, Applicant believes that the restriction requirement is inappropriate. Favorable resolution is respectfully requested.

This response has been timely filed. Accordingly, no additional fee is required. In the event that an additional fee is required for this response, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-0436.

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Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, he is invited to contact the undersigned at his convenience.

Respectfully submitted,



By: _____

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